

MEMO

Shelter & Environment

Housing & Environment

4th Floor, St.Nicholas House



ABERDEEN
CITY COUNCIL

To	Brenda Flaherty, Legal Manager, Resources Management, Town House		
From	Ally Thain, Private Sector Housing Manager, Housing & Environment		
Email	allyt@aberdeencity.gov.uk	Date	18 November 2009
Tel.	522870	Our Ref.	
Fax.		Your Ref.	

Civic Government (Scotland) Act 1982

(Licensing of Houses in Multiple Occupation) Order 2000

Application for the Renewal of a Licence to Operate a House in Multiple Occupation (HMO) at No.109 Craigievar Crescent, Aberdeen

Applicants: Susan Boulton

Agent: James & George Collie, Solicitors

I refer to the above HMO Licence application, which was considered by the Licensing Committee at their meeting on 28 October 2009, for the reason that a letter of objection has been received by my HMO Unit. The Licensing Committee resolved to defer consideration of the application until its next meeting on 2 December 2009.

I can advise you as follows:-

The premises:-

The premises to which this HMO Licence application relates is an ex- Council ground floor flat contained within a 'four-in-a-block' property, with accommodation comprising of three bedrooms, one public room, one kitchen and one bathroom. The position of the premises is shown on Appendix 'A' attached to this memo.

The HMO application:-

The HMO Licence application was received by the Council on 14 September 2009. The HMO Officer visited the premises thereafter, then he wrote to the agent listing several requirements to bring the premises up to the current HMO standard. At the date of this memo, all requirements have not been met.

Letter of objection:

The HMO Unit received a letter of objection from Mrs E.MacLeod, 111 Craigievar Crescent, Aberdeen. The letter was received within the statutory 21-day period for consultation therefore it is a 'competent' objection. The letter is attached as appendix 'B'.

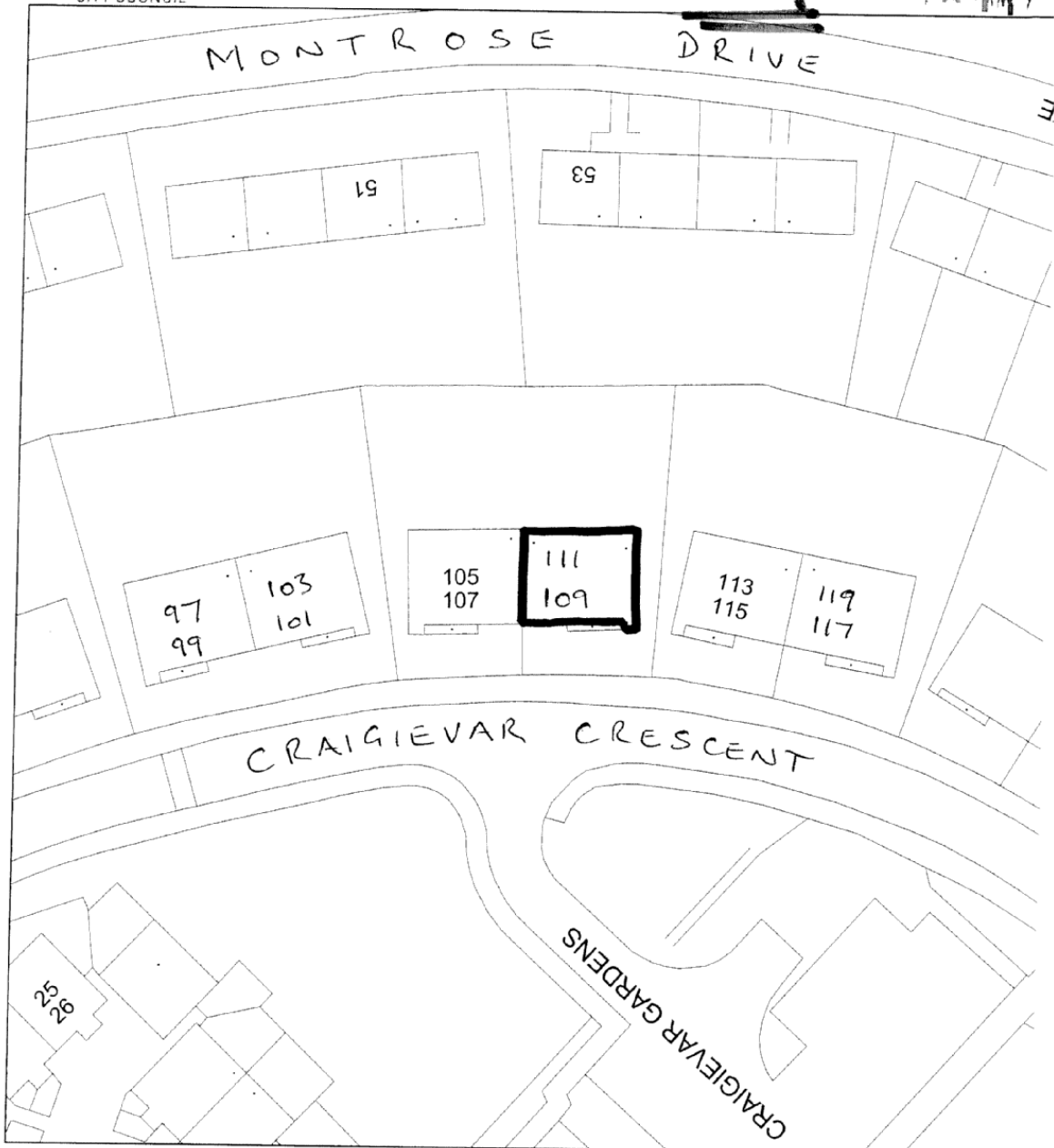
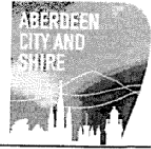
Other considerations:-

- The Chief Constable, Grampian Police, has been consulted in respect of the applicant's suitability as a "fit and proper person", and has made no comments or objections.
- Grampian Fire & Rescue Service has been consulted in respect of the suitability of the property, and has made no comments or objections.
- At the date of this memo, the Council's Antisocial Behaviour Investigation Team has no record of any complaint in respect of No.109 Craigievar Crescent, Aberdeen.
- At the date of this memo, the applicant and her property are registered with the Landlord Registration scheme.
- The objector lives directly above the HMO property.
- The HMO property has been the subject of two previous HMO licences.
- The applicant also owns the HMO premises at No.107 Craigievar Crescent, and has submitted an HMO Licence renewal application, which has not attracted any objections.
- The applicant's Solicitor has submitted a letter in support of the HMO Licence application, and responding to the points made in the letter of objection. The letter is attached as appendix 'C'.


I trust the above explains the position. Please contact me on x2870 if you wish to discuss any of the above.

Ally Thain

Private Sector Housing Manager



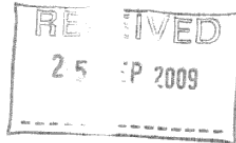
Title: HMO LICENCE APPLICATION
PREMISES : 109 CRAIGIEVAR CRESCENT, ABERDEEN
Scale: 1:500 Date: 13 October 2009 Map Ref: NJ9203SW

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NO live haf passed
to estate management
ct 25/9

111 CRAIGIEVAR CRESCENT
ABERDEEN

18th SEPTEMBER, 2009



APPENDIX 'B'

DEAR SIR/MADAM

THANK YOU FOR GIVING ME THIS

OPPORTUNITY TO OBJECT TO A LICENCE FOR A HOUSE OF MULTIPLE OCCUPATION AT 109 CRAIGIEVAR CRES I TOOK UP RESIDENCY WITH MY TWO CHILDREN IN A FLAT ABOVE THIS ADDRESS IN JUNE, 2002

THESE FLATS WHICH WERE BUILT BY ABERDEEN CITY COUNCIL OVER 30 YEARS AGO TO HOUSE FAMILIES ARE OF POOR SOUND CONSTRUCTION, I HAVE ENDURED SEVEN YEARS OF EXCESSIVE NOISE AFTER 11PM WHICH HAS LEAD TO MANY SLEEPLESS NIGHTS, TIME OFF WORK MEDICATION FROM MY DOCTOR AND FREQUENT OCCASIONS OF STANDING IN MY NIGHTWEAR ON MY NEIGHBOURS DOORSTEP ASKING WHAT TIME THEY WILL LET ME GO TO SLEEP.

LAST YEAR I ENDED UP LIVING ABOVE 13 CHINESE STUDENTS WHO TURNED THE LIVINGROOM INTO A MULTIPLE BEDROOM ENTERTAINED FRIENDS IN BEDROOMS UNTIL THE EARLY HOURS OF THE MORNING, IT TOOK A TEAM OF CLEANERS A WEEK TO CLEAN UP AFTER THEIR DEPARTURE AND RUMOUR OF A FLEA INFESTATION.

IN THE LAST FEW WEEKS 3 BULGARIAN STUDENTS HAVE MOVED IN, ALREADY GAINING A LODGER I BELIEVE AFTER TALKING TO THEM NEWLY EVICTED FROM A PROPERTY IN MARKET STREET, WHO THINKS HE CAN SING AND PLAY THE GUITAR! THEY OPENLY SMOKE DRUGS AND DRINK AT THE BACK DOOR IN CASE THE SOCK CALLED M.D.E. 11.10.09

I HAVE COMPLAINED IN THE PAST TO SUSAN + DAVID BOLTON ALSO JAMES + GEORGE COLLE BUT TO NO AVAIL. I HAVE TAKEN OVER THE MOWING OF THEIR GRASS AND THE PUTTING OUT OF THEIR RUBBISH BINS AS IN THE PAST WHEN RUBBISH IS LEFT TO PILE UP LOCALS HAVE BEEN USING THE GARDEN AS A LITTER BIN.

THANK YOU
Eime Macleod
MRS FLAINE MACLEOD.

DIARY ENTRY FOR MONDAY 21st SEPTEMBER, 2009
RUDELY AWAKEN AT 1.20 AM WITH SHOUTING AND LAUGHTER FROM FLAT BELOW. MY ONLY THOUGHTS PLEASE DON'T WAKEN MY CHILDREN AND PLEASE LET ME GET SOME MORE SLEEP BEFORE MY ALARM GOES OFF AT 6.30AM.

ABERDEEN CITY COUNCIL	
Neighbourhood Services Central	
HMO Unit	
Date Received:	29 SEP 2009
Date Logged on Flare	

RECEIVED-G.
22 SEP 2009
ABERDEEN NEIGHBOURHOOD SERVICES CENTRAL



SOLICITORS
AND ESTATE AGENTS
incorporating Cooper & Hay

Aberdeen City Council
St Nicholas House
Broad Street,
Aberdeen

Our Ref: GS.RMO.BOL00500.2
Your Ref:
Date: 17 November 2009

Dear Sirs

Licensing Committee: Wednesday 2 December 2009
Application for Renewal of Licence for a House in Multiple Occupation (HMO)
Premises: 109 Craigievar Crescent, Aberdeen
David and Susan Boulton ("the Applicant")

We refer to the above hearing and, on the Applicant's behalf, wish to respond to the letter of objection submitted by Mrs MacLeod ("the Objector"). We would be grateful if you would arrange for this letter to be circulated and considered by the Committee prior to the hearing.

We will, as far as possible, address the Objector's points in the order in which they are raised in the letter of Objection.

As indicated in the Objector's letter, the Objector lives directly above the Applicant's property. In buildings of this nature it is far from uncommon for sound to carry between properties - this is not the fault of the Applicant, nor the fault of the Applicant's tenants. The extent of the sound-proofing should not influence the Committee's consideration of this application. Sound-proofing is not a requirement for the granting of an HMO licence and is a matter for which separate avenues of investigation and appropriate remedy are available if necessary. We understand that the Objector has raised the matter of sound-proofing with the Council in the past.

It is not relevant that these flats were originally built to house families. The Committee will be aware that the flats are situated very close to the Robert Gordon University in Garthdee and, as such, provide suitable and affordable accommodation for students. It is unreasonable for the Objector to expect that students will not live in flats within this building. Consideration of an application for an HMO license should not be influenced by a neighbour's view on this matter.

The Objector complains of having to endure seven years of excessive noise after 11pm and sleepless nights leading to time off work and a requirement for medication.

Anthony J Dawson is accredited by The Law Society of Scotland as a specialist in Liquor Licensing Law

Doc ID: 278506

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John W Sinclair
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Forbes F McLennan
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Richard D M Shepherd
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Leanne S Gibb
Anne-Maryse Churchill

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Further, the Objector states that she has in the past complained to the Applicants and to the leasing agents, James and George Collie ("the Agents") about these matters.

The Applicants had provided the Objector with their contact details in order for the Objector to make contact if she had any issues with occupying tenants. In 2004 the Objector contacted the Applicants to complain about the tenants in the property at that time. We enclose correspondence relating to this complaint.

Councillors will note that the noises complained of by the Objector in the letter of 14 April 2004 ("to the Agents") are of a nature which cannot be completely avoided. The complaints relate to the noise of shoes on flooring, the opening and closing of doors and the noise of people entering and exiting the property. Similar 'every-day' noises such as snoring are referred to in the later letter of August 2004 to the tenants. There are no allegations of loud music or any other activity which is without doubt unreasonable or excessive.

We enclose subsequent letters written by the Agents which show that the tenants were of the view that the Objector's requests were unreasonable (amongst other things, they were asked to refrain from using hairdryers) and, at times, they felt the Objector was acting in a threatening and harassing manner.

Councillors will note from the correspondence that the Objector was requested to contact the Agents with regard to any further problems she had with the tenants. Neither the applicant, nor James and George Collie have heard from the Objector for a number of years. This is the only matter which the Objector has ever written to either party about. It should be noted that, despite the tenants' views that the complaints were unfounded and her behaviour was unreasonable, the Applicant took steps to resolve matters by referring the complaint to their Agent. The Applicants take their role as an HMO licensee very seriously and it is for this very reason they employ professional leasing agents in the local area. The Applicants could not reasonably have been expected to do any more with regard to this complaint.

We turn now to the vague and speculative complaints raised in the letter of objection. Neither the Applicant nor their agents have been contacted by the Objector in relation to any of these matters prior to the objection. It is apparent that the Council's Antisocial Behaviour Investigation Team has no record of any complaint in respect of the property. Even if the averments were true (which is denied), the Objector has not made the Applicant aware of the problems and, as such, the Applicant could not reasonably have been expected to have been able to resolve these matters.

Since seeing the letter of objection, the applicant has had an opportunity to look into matters raised and would respond as follows:

The Applicant permits three tenants to reside in the property. At no time have the Applicants or their leasing agents permitted, or been aware of, any more than three people occupying the property. Both the Applicant and the Agent would hope that anyone with

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reason to suspect inappropriate or unauthorised use of the property would report the matter immediately. There is no evidence that any concerns have been raised in relation to this. It is believed that the assertion that the Objector was 'living above 13 Chinese students' is a vast exaggeration perhaps based on friends of the occupants visiting. The nationality of the tenants is irrelevant.

With reference to the again unfounded allegation that 'it took a team of cleaners a week to clean' the property after the previous tenant's departure, the Applicants would simply point out that they take their responsibility as a landlord, and as an HMO holder, seriously and they ensure that their property is clean and comfortable for new occupants. It is standard practice of the Applicants to employ cleaners to thoroughly clean the property before new tenants move in. With regard to the 'rumour' of a flea infestation, this is simply untrue and again without foundation. It is suggested that the Objector should report concerns to the Agents or to relevant authorities for investigation. Unfounded rumours, which have not been investigated, or even reported, should not influence the Committee's decision.

With reference to the allegations concerning the current tenants, we would again point out that the nationality of the tenants is not relevant (nor accurate in this case). Again, it is reiterated that the Applicants permit three tenants to occupy the property. The Applicants employ professional leasing agents to manage these matters.

Hobbies such as signing and playing musical instruments may not be hobbies that the Objector approves of, however, tenants are perfectly entitled to enjoy these hobbies provide they do so reasonably and with consideration to their neighbours. The Applicants have spoken to the current tenants who have confirmed that they speak amicably with the Objector. The tenants advised the Applicant that they were very grateful for the occasion on which the Objector mowed their lawn. The tenants had only recently moved in had not yet had the opportunity to do this themselves - they thanked the Objector. The tenants have agreed with the Objector that they shall, as far as possible, try and create no noise after 11pm in the evenings. With reference to the serious allegation of drug taking, one tenant has explained that he uses a legal World War II 'shesa' given to him by his grandmother to smoke flavoured tobacco. Again we would point out that there is no evidence that any matters relating to excessive noise or illegal activities have been reported to any authority.

It is understood by the Applicant that the Objector is entitled to expect that the tenants of the Applicant's property will behave reasonably and will be considerate to neighbours. However, it must also be understood by the Objector that it is not possible to prevent all sounds from carrying between properties and occupants cannot be expected to live in silence - they are entitled to enjoy the property within reasonable limits.

It is submitted that the evidence favours the assertion that the Applicants are fit and proper persons who manage the property in such a way as to seek to prevent or deal effectively with any anti-social behaviour. For an HMO licence to be refused on this occasion would allow the views, preferences and unfounded claims of a sole Objector to determine the

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granting of the licence. If HMO licences are to be refused on these grounds, there is a real danger that over-sensitive or unreasonable neighbours can prevent the granting of these licences at will.

Yours faithfully

J+GC

James & George Collie

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Mrs Elaine MacLeod
111 Craigievar Crescent
Garthdee
Aberdeen

PROPERTY LEASING DEPARTMENT
220 Union Street
Aberdeen AB10 1TL

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Website: www.jgcollie.co.uk

DATE: 14/04/2004
OUR REF: FLD.BE.CP
YOUR REF:

Dear Mrs Macleod,

RE: COMPLAINT REGARDING 109 CRAIGIEVAR CRESCENT, ABERDEEN

Thank you for your letter of 3rd April 2004 received by us today the 14th April 2004.

We are disappointed to hear of the problems you are experiencing with the tenants of the above property and we confirm a letter has been to the tenants requesting they show consideration to neighbours in connection with the noise level and in particular any late night noise.

If you can hear the tenants speaking on the telephone then this suggests the sound proofing of the flats may be poor.

If anyone is causing a breach of the peace, whether it is a property owner or a tenant, then this could be a matter to be reported to the police.

However, we trust the letter we have sent to the tenants will be sufficient to quell the noise.

Please do not hesitate to contact us if we can be of further assistance.

Yours sincerely,

Furnished Leasing Department

Partners *Anthony J Dawson Philip G Dawson Duncan M Love Gregor F Sim Richard D M Shepherd Michael J Murchie*
Consultants *Alexander G Buchan Liz J W MacKinnon Jack Anderson Rory Craddock*
Partnership Accountant *Stuart J T McKay CA* Personal Tax Adviser *Nigel R M Scott*

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11) ORIGINAL VERSION

CARTHDEE

ABERDEEN

TUESDAY, 20th APRIL 2004

DEAR BARBARA, I RETURNED FROM THE EASTER HOLIDAYS ON SUNDAY TO YOUR LETTER, THANK YOU. WITH A POSITIVE ATTITUDE I DECIDED TO SLEEP IN MY OWN BEDROOM (MIDDLE AT THE BACK) ON SUNDAY NIGHT THERE WERE A GROUP OF PEOPLE (CONVERSING LOUDLY) UNTIL 12.45 AM AT WHICH TIME I GAVE UP ANY HOPE OF SLEEPING IN MY OWN BED LAST NIGHT MONDAY THE NOISE STOPPED ABOUT 12.30 ONLY TO RESTART AGAIN WATER WITH SNORING FROM A MALE BELOW THIS WOKE THE TENNANT WHO STARTED ARGUING WITH HIM AND THEN SHE DECIDED TO GET UP AND BANG SOME DOORS WHILE STAMPING UP AND DOWN THE HALLWAY.

I GOT STRAIGHT ONTO THE TENNANT'S HELPLINE FROM THE COUNCIL WHO HAVE NOW BEGAN GATHERING EVIDENCE ON MY BEHALF WITH A VIEW TO TAKING LEGAL ACTION AGAINST MRS BOWTON.

I ALSO HAD A MEETING WITH MRS HANNAH AT THE COUNCIL TO DISCUSS THE PROBLEM A SUGGESTION WAS MADE REGARDING SOUND

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PROOFING OF THE ACCOMMODATION WHICH WOULD HAVE TO BE CARRIED OUT FROM DOWNSTAIRS THE COST BEING SPLIT EQUALLY BETWEEN THE COUNCIL AND MRS BOWLTON.

I AM AWARE THESE STUDENTS WILL BE MOVING OUT IN THE SUMMER BUT THAT IS AT LEAST ELEVEN WEEKS AWAY I AM NOT WILLING TO PUT UP WITH THEIR LEVEL OF NOISE EVERY NIGHT UNTIL THEN THAT WOULD MEAN SEVENTY SEVEN NIGHTS OF NOT BEING ALLOWED TO SLEEP AT A TIME MYSELF AND CHILDREN CHOOSE TOO BUT WHEN THEY DECIDE WE CAN.

AS STUDENTS LEAD A TOTALLY DIFFERENT LIFESTYLE, WOULD IT NOT BE MORE SUITABLE TO RENT THE ACCOMMODATION TO PEOPLE WHO WOULD BE MORE CONSIDERATE TO NEIGHBOURS. AFTER THEY LEAVE.

A VERY TIRED

-Eileen MacLeod

MRS. E. MACLEOD.

P.S. ALL EXCESSIVE NOISE AT THE MOMENT IS BEING CARRIED OUT BY ONE OF YOUR TENNANTS AND HER PERMANENT GUEST AND VISITORS TO THE PREMISES.

11 CRAIGIEVAE CRES
ABERDEEN

SATURDAY 14TH AUG. 2009

DEAR NEIGHBOURS, YOU MAY NOT BE AWARE BUT DUE TO THE POOR SOUNDPROOFING BETWEEN OUR ACCOMMODATION I CAN HEAR EVERYTHING FROM YOUR FLAT. I.E. BANGING OF DOORS, LOUD VOICES, HIGH HEELED SHOES ON THE LAMINATE FLOORING, AND ENTERTAINING OF NON-RESIDENTIAL GUESTS IN BEDROOMS.

I CALLED YOUR LANDLADY AT 1.30AM THIS MORNING TO WAKE HER AND COMPLAIN ABOUT YOUR NOISE, I INTEND DOING THIS EVERY NIGHT YOU KEEP ME AWAKE. (WHY SHOULD SHE COLLECT YOUR RENT, AND NOT PUT UP WITH THE NOISE) I WAS WOKEN AGAIN AT 7AM THIS MORNING BY A MALE GUEST LEAVING YOUR PREMISES NOISELY.

I WILL NOT BE DICTATED TO WHEN I CAN AND CANNOT SLEEP ANY FURTHER NOISE AFTER 11PM AND BEFORE 8AM WILL BE REPORTED TO YOUR LEASING AGENT AND MINE.

E MacLeod
MRS. ELAINE MACLEOD.

101

PROPERTY LEASING DEPARTMENT
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DX AB43 Aberdeen

Website: www.jgcollie.co.uk

DATE: 10/12/2004

OUR REF: FLD.KN
YOUR REF:

Dear Mrs McLeod,

Re: 109 Craigievar Crescent, Aberdeen

We are writing with regard to the above property.

We have recently received information concerning the alleged noise pollution from our property at 109 Craigievar Crescent.

As previously advised we would be grateful if all complaints relating to this matter could be directed to ourselves or in severe instances to the police.

Anti social behaviour of any sort, from either parties will not be tolerated. As such we will be reporting our information to Aberdeen City Council for their records.

We would also like to advise that the property adheres to all current legislation in line with the Scottish Executive Houses in Multiple Occupation legislation.

Please contact our office directly should you wish to discuss this matter further.

Yours sincerely

Furnished Leasing Department

Partners Anthony J Dawson Philip G Dawson Duncan M Love Gregor F Sim Richard D M Shepherd Michael J Murchie
Consultants Alexander G Buchan Liz J W Mackinnon Jack Anderson Rory Cradock
Partnership Accountant Stuart J T McKay CA Personal Tax Adviser Nigel R M Scott

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Neil Simpson
South Team
Neighbourhood South
St Nicholas House
Upperkirkgate
AB10 1AX

PROPERTY LEASING DEPARTMENT
220 Union Street
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Website: www.jgcollie.co.uk

DATE: 15/12/2004

OUR REF: FLD.GFS.KN
YOUR REF:

Dear Mr Simpson,

Re: 109 & 111 Craigievar Crescent, Aberdeen

Further to our earlier conversation with one of your colleagues we are writing with regard to the alleged noise pollution from 109 Craigievar Crescent.

As the property management company for this property our tenants have contacted us regarding the aggressive behaviour of your tenant Mrs MacLeod. We have been advised that Mrs MacLeod has on numerous occasions visited their property demanding they refrain from generating any noise using a variety of expletives towards our tenants. Mrs MacLeod's has objected to hairdryers being used, high heels been worn and noises of a sexual nature. As you can appreciate these demands are excessive and have left our tenants feeling intimidated and scared.

Following our tenants recent visit to the office we contacted Mrs MacLeod in writing, again requesting all complaints regarding noise should be directed to ourselves, we enclose a copy for your attention. Mrs MacLeod contacted us on Monday, stating she would not be held responsible for her actions should her anger get the better of her and she would deal with the tenants herself as she felt we were unwilling to do anything. We strongly advised her she should refrain from threatening our tenants and we had discussed the issue of noise with our tenants.

Mrs MacLeod had previously written to us in April of this year advising of bedroom noises she was unhappy about, we spoke to our tenants on this occasion and replied to Mrs MacLeod requesting all future complaints she had on this matter should be directed to ourselves.

Partners Anthony J Dawson Philip G Dawson Duncan M Love Gregor F Sim Richard D M Shepherd Michael J Murchie

Consultants Alexander G Buchan Liz JW Mackinnon Jack Anderson Rory Cradock

Partnership Accountant Stuart JT McKay CA **Personal Tax Adviser** Nigel R M Scott

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Unfortunately Mrs MacLeod has not been contacting ourselves, instead choosing to go directly to the tenants door at various times of day.

It would appear Mrs MacLeod has issues with all tenants who reside in the property as she has complained about previous tenants.

Our current tenants are a group of female students, and we have no reason to question their behaviour within the property. We have asked our tenants to make a note of every time Mrs MacLeod goes to their door to ensure we have an accurate record of this harassment. We have had no other complaints from neighbours regarding their behaviour and as such feel that Mrs MacLeod's complaints are in the greatest part unfounded.

We would therefore be grateful if a record is made of this letter and should Mrs MacLeod's behaviour continue to be unacceptable then the relevant action is taken as her landlord.

We thank you for your help in this matter and please feel free to contact our offices should you have any further questions.

Yours sincerely

Furnished Leasing Department